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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1706/98

New Delhi: this the 20th day of May, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Surendra Kumar Shukla (Dr),

B-1/131, Janakpuri,

New Delhi-058

.... Applicant.

(By Advocate: Shri G.K. Agarwal)

Versus

1. Union of India through
Secretary,
Deptt. of Defence Research and
Development and Scientific Adviser
to
Defence Minister and
Director General Research &
Development, South Block,
DHQ PO New Delhi - 110011.
2. The Director,
Defence Science Centre,
Matcalfe House, (behind Old Sectt.),
Delhi-054.
3. The Controller of Defence Accounts (R&D),
Matcalfe House, (Behind Old Sectt.),
Delhi-054
..... Respondents.

(By Advocate: Shri R.P. Agarwal)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Heard both sides.

2. The Tribunal, in para 5 of its order dated 17.11.97 in O.A.2079/96 filed by present applicant Dr. S.K. Shukla has categorically held that benefits given to persons as a result of the Hon'ble Supreme Court's judgment in Civil Appeal No.4488/90 UOI Vs. O.P. Gupta would also be applicable to the present applicant. Respondents by letter dated 16.5.97

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(Annexure-A8), in compliance with the Hon'ble Supreme Court's orders in O.P.Gupta's case (supra) have not only deemed the Scientists mentioned in that letter retained, or reinstated them as the case may be till each of them attained the age of 60 years, but by that letter have also entitled them to full pay and allowances for the intervening period together with arrears.

3. In these facts and circumstances, any dissimilar treatment meted out by respondents to applicant, as they have done by impugned letter dated 19.12.97, by denying him full pay and allowances for the intervening period including arrears is patently discriminatory and hence violative of Articles 14 and 16 of the Constitution, and cannot be sustained in law, because applicant is similarly placed as those mentioned in respondents' letter dated 16.5.98.

4. Applicant has also claimed interest @12% p.a. on pay and allowances for the period between 1.10.96 to 4.1.98 or refund of interest recovered from him amounting to Rs.5,9630/- on the same basis, on the retiral benefits recovered from him. Respondents have contended that applicant was paid retiral benefits which were required to be recovered from him on his reinstatement in service and since he had already earned interest on his retiral benefits there is nothing wrong in case the same is recovered from him with 12% p.a. interest.

5. After careful consideration of the rival contentions we hold that this OA deserves to succeed and is allowed to this extent ^{that the impugned orders} ~~is~~ denying applicant

full pay and allowances for the period 1.10.96 to 4.1.98 is quashed and set aside. Respondents shall calculate and pay applicant full pay and allowances for the aforesaid period, together with arrears in the same manner as they had paid those employees who are mentioned in their letter dated 16.5.97 less payments made towards retiral benefits for this period and still unrecovered. Respondents shall also pay @12% p.a. on the sum thus calculated and payable, from the date of the impugned order dated 19.12.97 till the date of actual payment. These directions should be implemented within 3 months from the date of receipt of a copy of this order. No costs.

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J).

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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